The Honorable Benjamin H. Settle

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA, Plaintiff, v. DARRYL WRIGHT, Defendant.	No. CR14-5539 BHS REPLY TO GOVERNMENT'S OPPOSITION TO DEFENDANT'S MOTION TO RECONSIDER MODIFICATION OF BOND CONDITION

Defendant Darryl Wright, by his attorney, Christopher Black, files the following reply to the Government's response (Dkt. No. 206) to his motion to reconsider the imposition of a condition of no-contact with his daughter as a component of his appearance bond (Dkt. No. 203).

ARGUMENT

I. The Government did not refute the claims that the Court had been presented with inaccurate information related to the motion to modify Mr. Wright's bond.

The basis of Mr. Wright's motion to reconsider was that the Court had been presented with inaccurate information prior to initially granting the Government's motion to impose a no-contact condition in the bond. The motion set forth the discrepancies between the facts that had

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been presented to the Court and the facts in the Government's possession. Notably, the Government did not dispute the description of the additional facts provided by the defense.

II. The Government failed to establish that the actual facts warranted a modification of Mr. Wright's bond.

The Government noted its disagreement with the defense's contention, and stated that "any alleged 'inaccuracies' are really just differing inferences drawn from the known facts, or simply a misunderstanding of certain details at the time the government's sentencing memorandum was filed." Gov't Response, Dkt. No. 206, at 2.

The defense presumes that the "differing inference" pertains to the Government's description of Mr. Wright's actions regarding the recorded phone call. By this explanation, the Government asks the Court to accept that a reasonable inference from Mr. Wright's filing of a police report against MWM's mother, which explicitly stated that MWM had confirmed that she did not record the call, does not know how to record calls, and does not know who could have recorded the call, is that Mr. Wright was trying to have his daughter arrested. It is difficult to see how this could be the case. It would be fair to say perhaps that Mr. Wright could have put his daughter in the awkward position of being a witness, but this is clearly a far cry from actively seeking his daughter's arrest. Further, assuming that MWM's mother is the person who illegally recorded the call, it would seem that she would bear the most blame for the incident.

The defense also presumes that the "misunderstanding of certain details" pertains to the inaccurate statements in the Government's sentencing memorandum regarding MWM's letter to the Court. This response completely misses the point. The defense is not alleging any misconduct on the behalf of the Government, and undersigned counsel has no doubt whatsoever that the inaccuracies were not intentional (although one would hope that the Government might be more careful in such important matters). The point of the motion is that the Court was

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presented with inaccurate material information prior to rendering its decision. The explanation for why this happened is not relevant. What is relevant is whether the Court did in fact receive incorrect information, which the Government does not deny.

The defense further disagrees with the Government's contention that the "key facts" in the Government's sentencing memorandum and the memorandum about the interview are the same. The Government posits that the key fact is whether MWM said she wanted her dad to go to jail. The defense wholeheartedly disagrees. Mr. Wright himself has recommended a prison sentence. It simply makes no sense that he would attempt to subvert the judicial process in order to advocate a contrary position. The defense believes that the key facts are whether or not Mr. Wright destroyed a letter written by his daughter, insisted she write a new one, and forced her to include certain information in the letter. The Government has not denied that its previous allegations of such conduct against Mr. Wright are not true. As such, it is clear that factual picture now presented to the Court is very different than at the time the motion was granted.

Finally, the defense believes that it is important to note that Mr. Wright is not asking the Court "to trust his version of events, over and above evidence to the contrary." Gov't Response, at 3. Rather, the point of this motion is that we are asking the Court to look at the actual facts established *by the Government's own evidence*, rather than the inaccurate description of those facts previously presented to the Court by the Government. Those facts do not support a finding that Mr. Wright obstructed justice and do not support a condition of no contact with his daughter.

III. The Government's attempts to blame the defense for ongoing litigation regarding the letter are irrelevant and misplaced.

The Government seemingly blames the defense for creating a problem that we somehow could have easily avoided, by deciding to file the letter at issue. Gov't Response at 3, 5-6. This

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allegation is not well taken. The Government filed its sentencing memorandum (Dkt. No. 193), which contained the inaccurate allegations at issue, prior to the defense filing its memorandum, which had the letter attached (Dkt. No. 196). The defense fails to see how this issue could have been avoided by not filing the letter. To the contrary, the defense would contend that the Government could have avoided this situation simply by presenting accurate information to the Court. In any event, none of the Government's comments seem relevant to the actual determination of the motion.

DATED this 16th day of September, 2016.

Respectfully submitted,

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s/ Christopher Black
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served on the below-noted date, via the CM/ECF system, upon the parties required to be served in this action.

DATED this 16th day of September, 2016.

Respectfully submitted,

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s/ Christopher Black

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